

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Promoting Investment in the 3550-3700)	GN Docket 17-258
MHz Band)	
)	

COMMENTS OF NSIGHTTEL WIRELESS, LLC

Nsighttel Wireless, LLC (“Cellcom”) respectfully submits these comments in response to the Federal Communications Commission’s (“Commission”) *Notice of Proposed Rulemaking and Order Terminating Petitions* in the Citizen’s Broadband Radio Service (“CBRS”) proceeding.¹ Cellcom is a regional wireless telecommunications company that provides service in Wisconsin and the upper peninsula of Michigan. Cellcom supports the efficient use of this spectrum and maximizing the benefits of this spectrum for consumers, especially those in rural areas. This spectrum holds tremendous promise for innovation that will advance communications services for carriers and consumers alike. That is why it is so important for the Commission to get the licensing rules right. As discussed below, Cellcom supports smaller geographic license areas, a reasonable increase to the license term and a renewal expectancy that gives some assurance to a licensee that the licensee is able to renew the license.

I. SMALLER GEOGRAPHIC LICENSE SIZE AREA BEST ACHIEVES FCC’S GOALS FOR CBRS

Cellcom supports the NCTA and Charter compromise of using counties as the geographic license size for Priority Access Licenses (“PALs”) in the 3550-3700 MHz band.² As NCTA and

¹ *In re Promoting Investment in the 3550-3700 MHz Band*, Notice of Proposed Rulemaking and Order Terminating Petitions, FCC 17-134 (*rel.* Oct. 24, 2017) (*NPRM*).

² *NPRM* 32 FCC Rcd at 8080 ¶ 22.

Charter state, using counties for the license size area, “strike[s] a balance between preserving low barriers to entry and minimizing administrative burdens.”³ While Cellcom respects the opinion that census tracts proposes an administrative burden, it questions whether that is accurate in light of the advancements made in computing power and capabilities. Cellcom does not have a position on this as it is outside Cellcom’s area of expertise. Cellcom does, however, feel strongly that increasing the license size area to Partial Economic Areas (“PEAs”) will lessen participation in the auction and frustrate achievement of the FCC’s goals.

It is indisputable is that larger license sizes preclude some companies from participating in the auction while smaller license sizes do not. The record clearly shows that using PEAs will result in companies unable to participate because of the larger license size.⁴ At the same time, the record lacks any company saying they could not participate in the auction because the license size is too small.

For Cellcom, PEA 153, shown in Attachment 1, highlights the disparity between a large license size and a smaller one. PEA 153 is 140 miles long from north to south and runs from the state of Illinois border north to Green Lake County. This PEA includes Fond du Lac, the 15th most populous city in Wisconsin, and covers five counties. Cellcom has great interest in servicing the city of Fond du Lac and Fond du Lac County and some interest in Green Lake County which is immediately to the west of Fond du Lac County. It has no interest in the other three counties that go south to the Illinois border. If PEAs are used, in order to provide service to Fond du Lac County, Cellcom has to bid on three counties it will not provide service to. If Cellcom could even bid on and win this license, it is an inefficient use of spectrum for a carrier

³ *Id.*

⁴ See Vertical Broadband comments at 4 (“Basing PAL auctions solely on PEAs rather than census tracts would **wholly prevent** us from bidding on our existing domain.”)

to only provide service to one or two counties in an entire PEA.

In addition, the reverse is likely true for national companies. Running through the heart of PEA 153 is I-94, the major highway in Wisconsin that connects the two largest cities in the state – Milwaukee and Madison. The amount of traffic that goes through this corridor is the main attraction of this PEA. The secondary attraction for this PEA is the I-43 corridor that runs from Milwaukee to Beloit and includes Lake Geneva. Lake Geneva is a city whose population swells dramatically in summer time with tourists visiting and staying in the area. There is a significant increase in the demand for wireless connectivity during this period. So these two areas are the primary uses a nationwide carrier would have for the spectrum in this PEA. What is missing from these uses is servicing cities like Fond du Lac which is “off the beaten path” and where companies like Cellcom thrive.

II. PARTITIONING IS A VIABLE SOLUTION IN THEORY ONLY

Some commenters have argued that, if licensed on a PEA basis, partitioning will “ensure that PAL spectrum rights flow to their best use and support a wide variety of deployments.”⁵ Partitioning is not a viable solution to this problem. Partitioning only works if two conditions are met. First, you must have a licensee that is willing to partition its spectrum. As pointed out by DSA, Southern Linc, and WISPA, “there is no guarantee that the licensee will lease or sell idle spectrum in the secondary market.”⁶ Without a license holder willing sell idle spectrum, the spectrum sits idle. No one can force the licensee to utilize or sell that spectrum. As stated in the PEA 153 example, spectrum that goes unused is inefficient. Second, the licensee and a company willing to purchase the idle spectrum must reach an agreement on the terms and conditions. There is no guarantee the licensee will offer reasonable terms and conditions to the purchaser.

⁵ *NPRM* 32 FCC Rcd at 8082 ¶ 29.

⁶ *Id.* at ¶ 30.

III. INCREASING INITIAL TERM FOR LICENSE TO SIX YEARS IS A REASONABLE COMPROMISE – PROVIDED LICENSE SIZE IS SET APPROPRIATELY.

Cellcom agrees with the commenters that suggest more than three years is necessary to recover investment in the spectrum and avoid the possibility of stranded investment.⁷ However, Cellcom's support is conditioned on the license size area not being PEAs. From Cellcom's perspective, the license size is the most critical component of investment in the licensed area and is directly proportional to the license term. The larger the license size the shorter the license term needs to be to ensure the Commission's goals are met and spectrum does not sit unused or underutilized. If the Commission uses a smaller license size, like counties, then the concerns with spectrum going unused are mitigated and a longer license term can assist in bringing innovative services to licensed areas, especially rural ones.

IV. A RENEWAL EXPECTANCY IS NEEDED TO PROTECT INVESTMENT IN LICENSE – PROVIDED LICENSE SIZE IS SET APPROPRIATELY.

Cellcom supports a renewal expectancy but does not have an opinion on the terms or conditions that should apply to renewal of a license. As with the initial term of the license, the key to what terms and conditions should apply to a renewal is dependent upon the license size that is used. In order to achieve the Commission's goals, using PEAs as a license size would necessitate more stringent terms and conditions imposed on renewals and would suggest using a shorter renewal term, if any at all. Using a smaller license size, like counties, would obviate the need for greater protections for efficient use of the spectrum. The Commission could give greater assurances to license holders for renewals if the license size is smaller and would not

⁷ *NPRM* 32 FCC Rcd at 8075 ¶ 10.

need it impose stringent terms and conditions.

V. CONCLUSION

Cellcom appreciates the Commission's ongoing efforts to maximize participation in the CBRS auction, maximize the efficient use of this spectrum, and to ensure its rules accomplish the Commission's goals. For the reasons stated above, Cellcom supports the use of counties as the license size, opposes the use of PEAs, supports a compromise of six years as an initial term (provided PEAs are not used), and supports providing license holders some reasonable assurance of the renewability (provided PEAs are not used).

Respectfully submitted,

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Attachment 1 – PEA 153

